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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 JOHN RACZ,
12 Petitioner,
13 v.
14 SIRCOYA WILLIAMS, Warden,
15 Respondent.
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Case No. 2:25-cv-02778-JVS -KES

ORDER TO SHOW CAUSE WHY
PETITION SHOULD NOT BE
DISMISSED AS SUCCESSIVE

17 On March 30, 2025, John Racz (“Petitioner”) filed a Petition for Writ of
18 Habeas Corpus by a Person in State Custody pursuant to 28 U.S.C. § 2254.
19 (“Petition” at Dkt. 1.) As discussed more fully below, the Court orders Petitioner to
20 show cause why the Petition should not be dismissed as successive.

21 **I.**

22 **BACKGROUND**

23 Petitioner challenges his 2007 conviction of murder in the first degree under
24 Cal. Pen. Code § 187 in Los Angeles County Superior Court case number BA
25 320288, for which he was sentenced to twenty-five years to life. (Dkt. 1-2 at 6.)
26 Petitioner asserts habeas relief on the ground that, in 2021, Petitioner discovered the
27 notes of Detective Sally Fynan, which indicated that a credit card belonging to Ann
28 Racz, the victim of the 1991 murder, “had been used multiple times after April 22,

1 1991, the date she disappeared.” (*Id.* at 8.) Petitioner asserts that the People’s
2 failure to disclose these notes prior to his trial violated the prosecutor’s duty under
3 Brady v. Maryland, 373 U.S. 83 (1963). (*Id.*) However, the Petition appears to be
4 successive.

5 II. 6 DISCUSSION

7 A. Legal Standard.

8 Under the Antiterrorism and Effective Death Penalty Act (“AEDPA”),
9 generally prisoners may file only one petition challenging a state court conviction
10 under § 2254. See 28 U.S.C. § 2244(b)(1)-(2). In order to file a second or
11 successive petition under § 2254, the petitioner must seek authorization from the
12 Ninth Circuit Court of Appeals. See 28 U.S.C. § 2244(b)(3). The petitioner must
13 demonstrate that the claim(s) raised in the proposed successive petition were not
14 presented in a prior petition and that:

15 (A) ... the claim relies on a new rule of constitutional law, made retroactive to
16 cases on collateral review by the Supreme Court, that was previously
17 unavailable; or

18 (B)(i) the factual predicate for the claim could not have been discovered
19 previously through the exercise of due diligence; and

20 (ii) the facts underlying the claim, if proven and viewed in light of the
21 evidence as a whole, would be sufficient to establish by clear and convincing
22 evidence that, but for constitutional error, no reasonable factfinder would
23 have found the applicant guilty of the underlying offense.

24 28 U.S.C. §§ 2244(b)(2)(A)-(B).

25 Failure to secure an order from the Ninth Circuit authorizing the filing of a
26 second or successive petition deprives the district court of subject matter
27 jurisdiction over the petition. Cooper v. Calderon, 274 F.3d 1270, 1274 (9th Cir.
28 2001), cert. denied, 538 U.S. 984 (2003).

1 **B. Analysis.**

2 Petitioner has filed three prior habeas petitions in the Central District of
3 California: (1) Racz v. Knipp, Case No. 2:12-cv-05300-FMO, constructively filed
4 on June 13, 2012; (2) Racz v. Knipp, Case No. 2:12-cv-08270-JVS-RNB,
5 constructively filed on September 16, 2012 (Dkt 1), with a first amended petition
6 filed through counsel on May 26, 2013 (Dkt. 34); and (3) Racz v. Borders, Case
7 No. 2:17-cv-02394-JVS-KES, filed through counsel on March 29, 2017.

8 In the first case, the petition was dismissed without prejudice as unexhausted.
9 (Case No. 12-cv-05300, Dkt. 18.) In the second case, the court dismissed the first
10 amended petition with prejudice because habeas relief was not warranted with
11 respect to Petitioner's pre-indictment delay, insufficiency of the evidence,
12 outrageous government misconduct, and ineffective assistance of counsel claims.
13 (Case No. 12-cv-08270, Dkt. 84, 91.) It also denied Petitioner's request for an
14 evidentiary hearing. (Id.) In the third case, the petition was dismissed without
15 prejudice as successive. (Case No. 17-cv-02394, Dkt. 8, 9.) On April 24, 2017,
16 following the dismissal of the third petition, Petitioner filed an application with the
17 Ninth Circuit for leave to file a successive petition. (Case No. 17-71174, Dkt. 1.)
18 This application was denied. (Id., Dkt. 2.)

19 The instant Petition challenges the same 2007 conviction that Petitioner
20 previously challenged in the first three habeas petitions filed in this Court. Because
21 the second of the three prior petitions was adjudicated on the merits and the third
22 was dismissed as successive, the instant Petition appears to be successive as well.
23 Petitions raising claims under Brady based on recently discovered evidence can still
24 be successive. See Brown v. Atchley, 76 F.4th 862, 869 (9th Cir. 2023) (noting
25 that, when Petitioner Brown filed a second habeas petition "alleging that previously
26 undisclosed information contained in three police officers' personnel files was
27 subject to disclosure under Brady ...," the district court properly dismissed the
28 petition as a "successive petition requiring pre-filing authorization from the Ninth

1 Circuit”).

2 Based on the Court’s review of the Ninth Circuit’s docket, Petitioner has
3 neither requested nor received permission from the Ninth Circuit to file the Petition.
4 Accordingly, the Court appears to lack jurisdiction to adjudicate the instant
5 Petition. See Cooper, 274 F. 3d at 1274.

6 **III.**

7 **CONCLUSION**

8 IT IS THEREFORE ORDERED that, **on or before May 22, 2025**, Petitioner
9 show cause in writing, if any he has, why the Court should not recommend that his
10 Petition be dismissed without prejudice as successive.

11
12 DATED: April 23, 2025

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14 KAREN E. SCOTT
15 UNITED STATES MAGISTRATE JUDGE
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